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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,457	11/02/2001	J. Michael Weaver	KNA-0012	9579

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EXAMINER

TRAN, LOUIS B

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 07/14/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

Office Action Summary	Application No. 10/005,457	Applicant(s) WEAVER ET AL.	
	Examiner Louis B Tran	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 and 64-73 is/are pending in the application.
- 4a) Of the above claim(s) 3, 7, 20, 22, 33-57, and 64-73 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-6, 8-19, 21 and 23-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>Z</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species I, claims 1,2,4-6,8-19,21,23-32 in Paper No. 12 is acknowledged. The traversal is on the ground(s) that claims 6,8,21,23 of Figure 2A is also drawn to Figure 2B. This is found persuasive and the claims have been examined below. The requirement is still deemed proper and is therefore made FINAL.
2. Claims 3, 7, 20, 22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 12.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4, 5, 9, 11, 13-19, 24, and 26-32 rejected under 35 U.S.C. 102(b) as being anticipated by Walter (3,057,136).

With respect to claim 1, Walter teaches a packaging machine comprising a plurality of lane guides 16,12 said plurality of lane guides being spaced apart to form a plurality of lanes, a moveable conveyor belt 10 having a first end and a second end, said first end located beneath one of said plurality of lanes, said movable conveyor belt

delivers the product to each of said plurality of lanes, a support device 18 located at said plurality of lanes and a shifting assembly 30,32 attached to said plurality of lane guides.

With respect to claim 2 Walter teaches a packaging machine wherein said support device includes a support strip 18, said support strip being located at each of said plurality of lanes and is located beneath said movable conveyor belt, said support strip supports the product.

With respect to claim 4, Walter teaches a machine wherein said plurality of lanes includes an appropriate number of lanes to fill a case.

With respect to claim 5, Walter teaches a machine wherein said plurality of lanes includes a spare lane.

With respect to claim 9, Walter teaches wherein said shifting assembly is adapted to move said lane guides from a first position to a second position, said first position and second position being spaced apart a distance substantially equal to a width of one of said plurality of lanes.

With respect to claim 11, Walter teaches a sensor mounted adjacent to said plurality of lanes described in column 2, lines 10-25.

With respect to claim 13, Walter teaches a case feed assembly located beneath said plurality of lanes as seen in Figure 1.

With respect to claim 14, Walter teaches wherein said case feed assembly is configured to position a case beneath said lane guides, the case being sized to receive the product delivered into said plurality of lanes as seen in Figure 1.

With respect to claim 15, Walter teaches wherein said case feed assembly includes a feed conveyor, said conveyor is adapted to deliver the case beneath said plurality of lanes as in Figure 1.

With respect to claim 16, Walter teaches wherein said one feed conveyor is adapted to remove the case from beneath said plurality of lanes as seen in Figure 1.

With respect to claim 17, Walter teaches a controller described in column 2, lines 30-38.

With respect to claim 18, Walter teaches a packaging machine comprising a plurality of lane guides 16,12 said plurality of lane guides being spaced apart to form a plurality of lanes, said plurality of lanes includes an appropriate number of lanes to fill a case and a spare lane, a moveable conveyor belt 10 having a first end and second end, said first end located beneath one of said plurality of lanes, said moveable conveyor belt delivers the product to each of said plurality of lanes, a support device located at said plurality of lanes, and a shifting assembly 30,32 attached to said plurality of lane guides.

With respect to claim 19, Walter teaches wherein said support device includes a support strip 18, said support strip being located at each of said plurality of lanes and is located beneath said movable conveyor belt, said support strip 18 supports the product as seen in Figure 1.

With respect to claim 24, Walter teaches a packaging machine wherein said shifting assembly is adapted to move said lane guides from a first position to a second position, and said first and second positions being spaced apart a distance substantially equal to a width of one of said plurality of lanes as seen in Figure 1.

With respect to claim 26, Walter teaches a sensor mounted adjacent to said plurality of lanes as in column 2, lines 10-25.

With respect to claim 27, Walter shows a conveyor shifting assembly, said conveyor shifting assembly moves said conveyor from one of said plurality of lanes to an adjacent one of said plurality of lanes as in Figure 1.

With respect to claim 28, Walter shows a case feed assembly located beneath said plurality of lanes as in Figure 1.

With respect to claim 29, Walter shows wherein said case feed assembly is configured to position the case beneath said appropriate number of lane guides, the case being sized to receive the product delivered into said appropriate number of lanes as in Figure 1.

With respect to claim 30, Walter shows wherein said case feed assembly includes a feed conveyor, said conveyor is adapted to deliver the case beneath said plurality of lanes as in Figure 1.

With respect to claim 31, Walter shows wherein said one feed conveyor is adapted to remove the case from beneath said plurality of lanes as in Figure 1.

With respect to claim 32, Walter teaches a machine comprising a controller described in column 2, lines 30-38.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6, 8, 10, 12, 21, 23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter (3,057,136) in view of Ebira (5,174,430).

Walter discloses the invention substantially as claimed including the above but does not explicitly show a spacing mechanism disposed at said second end of said moveable conveyor belt that includes a side belt assembly or a flex guide mounted to the conveyor belt and adapted to direct the product into a plurality of lanes.

However, with respect to claim 6, 8, 21 and 23, Ebira teaches the common use of side belt assemblies on conveyor belts for the purpose of regulating product flow and packaging speed as in column 6, lines 10-20.

Therefore, it would have been obvious to one having ordinary skill in the art to provide Walter with a spacing mechanism of a side belt type in order to regulate packaging speed.

With respect to claims 10 and 25, Ebira teaches a flex guide 2 mounted to the conveyor belt and adapted to direct the product into a plurality of lanes as seen in Figure 2 for the purpose of guiding the product as in column 7, lines 5-25.

Therefore, it would have been obvious to one having ordinary skill in the art to provide the modified device of Walter with flex guides in order to transport and guide product flow.

With respect to claim 12, Walter teaches a conveyor and shifting assembly, but does not show wherein said conveyor shifting assembly moves said conveyor from one of said plurality of lanes to an adjacent one of said plurality of lanes.

However, Ebira teaches the use of a conveyor shifting assembly 5 moving said conveyor from one of said plurality of lanes to an adjacent one of said plurality of lanes as in Figure 1 for the purpose of transporting product to a plurality of lanes as in column 7, lines 27-47.

Therefore, it would have been obvious to one having ordinary skill in the art to provide Walter with a conveyor shifting assembly in order to distribute product to a plurality of lanes.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are Evans et al., Wild, Raudat (3,561,189), Raudat (4,432,189), Raudat ('932), Miller et al., Rowekamp, Hartness, Wild ('967), Glover, Wild ('804).

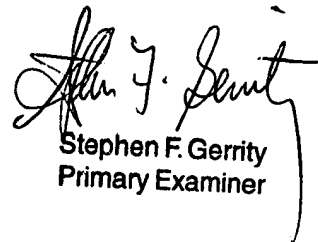
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis B Tran whose telephone number is 703-305-0611. The examiner can normally be reached on 8AM-6PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

lbt
July 8, 2003



Stephen F. Gerrity
Primary Examiner